



Staff Report for Council Meeting

Date of Meeting: December 9, 2020

Report Number: SRPI.20.035

Department: Planning and Regulatory Services

Division: Development Planning

Subject: **SRPI.20.035 – Request for Approval – Extension of Outdoor Patio Temporary Use Zoning By-law 91-20 – City of Richmond Hill – City File D24-20001**

Purpose:

A City initiated request for approval to extend the expiration date set out under Temporary Use By-law 91-20, which permits the establishment and expansion of outdoor patios in support of the resumption of business during the COVID-19 Emergency.

Recommendation:

- a) That the City initiated Zoning By-law Amendment to extend Temporary Use By-law 91-20, regarding the establishment and expansion of outdoor patios in support of the resumption of business during the COVID-19 Emergency (City File D24-20001) be approved;
- b) That By-law 146-20, attached as Appendix 'C' to staff report SRPI.20.035, be enacted to amend the Temporary Use By-law 91-20 to extend the established expiry date from January 1, 2021 to January 1, 2022

Contact Person:

Kelsey Prentice, Planner I - Zoning, phone number 905-771-2470

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Shelly Cham, Manager of Development - Zoning, phone number 905-747-6470

Report Approval:

Submitted by: Kelvin Kwan, Commissioner of Planning and Infrastructure Department

Approved by: Mary-Anne Dempster, City Manager

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All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner and City Manager. Details of the reports approval are attached.

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Introduction:

On July 2, 2020, the Province of Ontario issued Regulations 511/2020 and 518/2020 which amended the *Emergency Management and Civil Protection Act* to provide additional measures to assist municipalities in enacting Temporary Use By-laws to facilitate approvals of outdoor patios. Amongst others, the Regulations established the following:

- a definition of “restaurant and bar patio”;
- requirements for outdoor covering and permeability related to restaurants and bar patios; and,
- an exemption from the statutory public hearing and appeal provisions of the *Planning Act* where a Temporary Use Zoning By-law is enacted to facilitate a restaurant or bar patio use.

On July 8, 2020, Council approved Temporary Use Zoning By-law 91-20 (By-law 91-20) to expand permissions with respect to the establishment and expansion of outdoor patios throughout the City (refer to Appendices A and B). By-law 91-20 was enacted in response to direction from the Province of Ontario to support the resumption of business during the COVID-19 Emergency. The by-law suspended the provisions of the City’s existing Outdoor Patio By-law 83-97 (Patio By-law), as amended, and introduced new standards for outdoor patios. By-law 91-20 is set to expire on January 1, 2021.

The Province’s regulation as noted above continues to be in effect through the *Reopening Ontario (A Flexible Response to COVID-19) Act*. As of the time of writing of this report, the act is set to expire on November 21, 2020. However, it is anticipated that the regulations will be further extended in time for the December 9, 2020 Council Meeting wherein the proposed Zoning By-law Amendment is to be considered. On the basis of the preceding, staff is seeking Council’s approval to bring forward a Zoning By-law Amendment at this time in order to continue to support the resumption of business during the COVID-19 Emergency.

The purpose of this report is to seek Council’s approval to enact a by-law to facilitate the extension of By-law 91-20 which is set to expire on January 1, 2021 to January 1, 2022.

Background:

On June 19, 2020, York Region entered into Stage 2 of the Province’s Reopening Plan. Stage 2 permitted restaurants, bars, food trucks and other food and drink establishments to open for dining in outdoor areas only such as patios, curbside areas, parking lots and adjacent premises. Additionally, liquor sales licensees who wished to temporarily extend the physical size of their existing licensed patio or temporarily add a new licensed patio within the approved period, were authorized to do so subject to meeting specific criteria, including that the municipality in which the premises is situated does not object to the proposal. On this basis, on July 8, 2020, Council enacted By-law

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91-20 with respect to the regulation of outdoor patios. As noted previously, By-law 91-20 is set to expire on January 1, 2021 in accordance with Council's previous direction.

The Province recently established a five level tiered system to deal with COVID-19 restrictions. As of the writing of this report, York Region is under the Control Red Zone Level which permits indoor and outdoor dining with restrictions related to maximum occupancy, distance between patrons and hours of operation, among other measures. In order to maintain maximum flexibility for commercial operators to respond to changing conditions, staff is seeking Council's approval to continue the permissions under the existing Outdoor Patio Temporary Use By-law to the end of 2021.

Current Provisions Under By-law 91-20

As previously noted, the intent of By-law 91-20 is to provide flexibility for existing businesses to operate during the COVID-19 Emergency period. In this regard, the by-law, amongst other matters, establishes provisions to (refer to Appendix C):

- harmonize the definitions of "Outdoor Patio" and "Premises" on a City-wide basis;
- permit an Outdoor Patio on any commercial property;
- permit an Outdoor Patio in any yard subject to maintaining a minimum setback of 15 metres (49.2 feet) from an abutting low density residential lot;
- allow Outdoor Patios to locate within a parking area and utilize a maximum of 30% of existing parking spaces; and,
- restrict the size of an Outdoor Patio to a maximum of one hundred (100%) percent of the gross floor area of the Premises.

During the COVID-19 Emergency period, requests to permit temporary Outdoor Patios have been reviewed for compliance with By-law 91-20 by the City's Building Services Division. More specifically, for patios that are licenced to serve liquor, staff reviews a Municipal Letter of No Objection for Alcohol and Gaming Commission of Ontario (AGCO) licensing purposes. For patios that are not licensed by the AGCO, proponents are required to comply with the applicable by-law provisions and require no specific approvals from the City. To date, the Building Services Divisions has received 27 formal applications for a Municipal Letter of No Objection for AGCO licensing purposes, of which 18 have been approved.

It should be noted that the City has had no issues with the operation of both licenced and unlicenced Outdoor Patios to date. Due to the expected continuation of the COVID-19 Emergency into 2021, it is prudent to continue the existing provisions of By-law 91-20 into 2022. On the basis of the preceding, it is recommended that By-law 91-20 be extended to January 1, 2022.

City Department, External Agency and Public Comments:

Planning staff have consulted with Building Services Division, Community Standards Department, Fire and Emergency Services, Parks and Natural Heritage Planning and

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Development Engineering Division regarding the proposed extension of the Temporary Use By-law. None of the divisions/departments consulted had any concerns with the extension of By-law 91-20.

Financial/Staffing/Other Implications:

The recommendation of this report does not have any financial, staffing or other implications.

Relationship to the Strategic Plan:

The proposed Zoning By-law Amendment would align with **Goal Four of the City's Strategic Plan - Wise Management of Resources in Richmond Hill** by committing to use land responsibly and by serving as a role model for municipal management.

Conclusion:

By-law 91-20 temporarily suspends the current zoning regime that applies to the establishment of Outdoor Patios throughout the City. Amongst other matters, it expands permissions for Outdoor Patios in response to the direction from the Province of Ontario to support the resumption of business during the COVID-19 Emergency. The purpose of this report is to provide Council and the public with an overview of the current Temporary Use By-law and to recommend its extension to January 1, 2022.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call the contact person listed in this document.

- Appendix A – Temporary Use By-law 91-20
- Appendix B – Council Extract
- Appendix C – Proposed Draft Extension By-law

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Report Approval Details

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| Document Title: | SRPI.20.035 – Request for Approval – Extension of Outdoor Patio Temporary Use Zoning By-law 91-20 – City File D24-20001.docx |
| Attachments: | - Appendix A - Temporary Use By-law 91-20.pdf - Appendix B - Council Extract.pdf - Appendix C - Proposed Draft Zoning By-law.pdf |
| Final Approval Date: | Nov 18, 2020 |

This report and all of its attachments were approved and signed as outlined below:

Gus Galanis - Nov 18, 2020 - 1:43 PM

Kelvin Kwan - Nov 18, 2020 - 3:51 PM

MaryAnne Dempster - Nov 18, 2020 - 4:30 PM